

REMARKS

At the outset, Applicant thanks the Examiner for the thorough review and consideration of the pending application. Applicant also thanks the Examiner for the courtesies extended to Applicant's representative, Rebecca G. Rudich, on January 12, 2005. The Office Action dated October 14, 2004 has been received and its contents carefully reviewed.

Claim 46-53 are hereby added. Accordingly, claims 1, 4, 14, 16, 20, 21, and 40-53 are currently pending. Reexamination and reconsideration of the pending claims is respectfully requested.

In the Office Action, the Examiner rejected claims 1, 14, 40, and 42 under 35 U.S.C. § 102(e) as being allegedly anticipated by Mitsui et al. (U.S. Patent No. 5,559,617). This rejection is respectfully traversed and reconsideration is requested.

As set forth in M.P.E.P. § 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single reference. That is, the identical invention must be shown in as complete detail as contained in the claim.

Nevertheless, in rejecting claims 1, 14, 40, and 42, the Examiner asserts that Mitsui et al. discloses "first ... and second ... substrates; a reflective electrode ...; a liquid crystal layer ...; two optical compensation films (13,14) (col. 6, lines 11-13) of a same type (col. 10, lines 58-63; col. 12, lines 14-23) over the second substrate ...; and a first alignment layer...." The Examiner further suggests that, because "Mitsui discloses that both optical compensation films are made of stretched polycarbonate film and ... [because] polycarbonate is inherently a uniaxially oriented polymer film unless disclosed otherwise[,] the optical compensation members are inherently uniaxially stretched and the limitation such as both compensation films having same ordinary refractive index is inherent." With respect to the Examiner's aforementioned suggestions, Applicants respectfully disagree.

Specifically, Applicant respectfully submits the Examiner has failed to establish the inherency that the optical compensation films of Mitsui et al. are uniaxially oriented. As set forth at M.P.E.P. § 2112, inherency can only be established when extrinsic evidence makes it clear that the missing descriptive matter is necessarily present in the thing described in the reference.

In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the reference. By merely asserting, however, “[because] polycarbonate is inherently a uniaxially oriented polymer film unless disclosed otherwise the optical compensation members are inherently uniaxially stretched,” Applicant respectfully submits the Examiner has failed to provide any basis in fact and/or technical reasoning to reasonably support a determination that the optical phase compensation members of Mitsui et al. must necessarily, 100% of the time, be “uniaxially oriented.” As noted at M.P.E.P. § 2112, the fact that a certain characteristic may be present in a reference is not sufficient to establish inherency of that characteristic. Therefore, in stating “polycarbonate is inherently a uniaxially oriented polymer film unless disclosed otherwise,” the Examiner actually admits that the optical phase compensation members of Mitsui et al. may not, in every instance, be uniaxially oriented. Because the optical phase compensation members of Mitsui et al. are not necessarily uniaxially oriented, Mitsui et al. fails to anticipate the present invention. For at least these reasons, Applicant respectfully requests withdrawal of the present rejection of claims 1, 14, 40, and 42 under 35 U.S.C. § 102(e).

Moreover, Applicant respectfully submits the Examiner has failed to establish the inherency that the optical compensation films of Mitsui et al. have the same ordinary refractive index. For example, at column 12, lines 14-23, Mitsui et al. merely teaches:

A stretched film made of polycarbonate was used as the first optical phase compensation member 13 of the reflective liquid crystal display device described in conjunction with Example 1, and patterned by a dry etching technique using a conventional photoprocess. Then, a stretched film made of polycarbonate and functioning as the second optical phase compensation member 14 was disposed on the member 13.

In view of above-cited teaching of Mitsui et al., and assuming *arguendo* that the optical compensation films of Mitsui et al. are uniaxially stretched as asserted by the Examiner, Applicant respectfully submits Mitsui et al. fails to teach, either expressly or inherently, wherein the optical compensation films 13 and 14 have the same ordinary refractive index. Further, in establishing the inherency of this element, the Examiner has failed to supply any basis in fact and/or technical reasoning that would cure this deficiency in Mitsui et al. For at least these

additional reasons, Applicant respectfully requests withdrawal of the present rejection of claims 1, 14, 40, and 42 under 35 U.S.C. § 102(e).

Further, and assuming *arguendo* that Mitsui et al. expressly and inherently discloses all that it is relied upon as disclosing, Applicant respectfully submits Mitsui et al. fails to teach “two uniaxial optical compensation films of a same ... shape” as recited in claims 40 and 42. For at least this additional reason, Applicant respectfully submits Mitsui et al. fails to anticipate at least claims 40 and 42 and, therefore, requests withdrawal of the present rejection of claims 40, and 42 under 35 U.S.C. § 102(e).

In the Office Action, the Examiner rejected claims 4, 16, 41, and 43 under 35 U.S.C. § 103(a) as being allegedly anticipated by Mitsui et al. in view of Arakawa (U.S. Patent No. 5,189,538). This rejection is respectfully traversed and reconsideration is requested.

Claims 4, 16, 41, and 43 depend from claims 1, 14, 40, and 42, respectively, which as discussed above, are patentable over Mitsui et al. Arakawa is asserted by the Examiner as disclosing features recited by dependent claims 4, 16, 41, and 43. Without reaching the merits of this assertion, Applicants respectfully submit that Arakawa fails to cure the above-cited deficiencies of Mitsui et al. as applied to independent claims 1, 14, 40, and 42 above. Therefore, Applicants respectfully submit that claims 4, 16, 41, and 43, which depend from claims 1, 14, 40, and 42, are patentable over Mitsui et al. in view of Arakawa.

In the Office Action, the Examiner rejected claims 20, 21, 44, and 45 under 35 U.S.C. § 103(a) as being allegedly anticipated by Mitsui et al. in view of Sugiyama et al. (U.S. Patent No. 5,757,455). This rejection is respectfully traversed and reconsideration is requested.

Claims 20, 21, 44, and 45 depend from claims 1, 14, 40, and 42, respectively, which as discussed above, are patentable over Mitsui et al. Sugiyama et al. is asserted by the Examiner as disclosing features recited by dependent claims 20, 21, 44, and 45. Without reaching the merits of this assertion, Applicants respectfully submit that Sugiyama et al. fails to cure the above-cited deficiencies of Mitsui et al. as applied to independent claims 1, 14, 40, and 42 above. Therefore, Applicants respectfully submit that claims 20, 21, 44, and 45, which depend from claims 1, 14, 40, and 42, are patentable over Mitsui et al. in view of Sugiyama et al.

In the Office Action, the Examiner rejected claims 1, 4, 14, 16, 40, 41, 42, and 43 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Baba et al. (U.S. Patent No. 5,493,431). This rejection is respectfully traversed and reconsideration is requested.

As set forth in M.P.E.P. § 2143.03, a *prima facie* case of obviousness is established when, at least, all the features of the claim are taught or suggested by the applied reference(s).

Nevertheless, in rejecting claim 1, 14, 40, and 42, the Examiner asserts that Baba et al. discloses “two positive uniaxial compensation films (9, 10) ... wherein an ordinary refractive index of each of the two uniaxial compensation films is the same (col. 5, lines 20-22, 50-55).” Applicant, however, respectfully disagrees.

For example, at column 5, lines 20-22, Baba et al. teaches that “[t]he phase difference plates 9, 10, are made of polycarbonate both having retardation of 390nm.” Applicant respectfully submits that a material’s properties such as refractive index and retardation are not the same. A material’s refractive index is merely the ratio of the velocity of light in a vacuum to the velocity in the material whereas retardation (described in terms of “phase difference”) refers to the delay in propagation of light through the material itself. Accordingly, it is well known that the retardation of a material layer is determined by multiplying the refractive index of the material by the thickness of the material. Applicant respectfully submits that Baba et al. is completely silent as to any teaching or suggestion regarding the relative thicknesses and refractive indices of the phase difference plates 9 and 10. Accordingly, Applicant respectfully submits that Baba et al. fails to teach or suggest, for example, “wherein an ordinary refractive index of each of the two uniaxial optical compensation films is the same,” as recited in claims 1, 14, 40, and 42. For at least these reasons, Applicant respectfully submits that claims 1, 14, 40, and 42 are nonobvious in light of Baba et al. and, therefore, requests withdrawal of the present rejection of claims 1, 14, 40, and 42 under 35 U.S.C. § 103(a).

As set forth in M.P.E.P. § 2143.01, there must be some suggestion or motivation to modify the references and arrive at the claimed invention. Indeed, the mere fact that a reference can be modified does not render the resultant modification obvious unless the reference also suggests the desirability of the modification. Moreover, the level of skill in the art cannot be relied upon provide the suggestion or motivation to modify the references.

Nevertheless, in concluding the rejection of claims 1, 14, 40, and 42, the Examiner acknowledges that Baba et al. does not teach a reflective display using a reflective electrode. Attempting to cure this deficiency, the Examiner asserts that “using a reflective electrode to obtain a display device is common and known in the art and thus would have been obvious.” Applicant respectfully disagrees.

Specifically, while it may, generically, be obvious to “use a reflective electrode to obtain a display device,” Applicant respectfully submits the mere presence of reflective electrodes for use in reflective-type LCD displays does not provide any suggestion or motivation making it obvious to provide the LCD display of Baba et al., which is a transmissive LCD display with transparent electrodes (see Baba et al., column 4, lines 60-67), as a reflective LCD display with reflective electrodes. Thus, Applicant respectfully submits that the motivation used to modify Baba et al. (essentially that an individual element recited in the claims is known in the art) completely relies on the level of skill in the art and is, therefore, insufficient to establish a *prima facie* case of obviousness. For at least this additional reason, Applicant respectfully submits that claims 1, 14, 40, and 42 are nonobvious in light of Baba et al. and, therefore, requests withdrawal of the present rejection of claims 1, 14, 40, and 42 under 35 U.S.C. § 103(a).

As set forth in M.P.E.P. § 2143.03, if an independent claim is nonobvious under 35 U.S.C. § 103 then any claim depending therefrom is nonobvious. Therefore, Applicants respectfully submit that claims 4, 16, 41, and 43, which depend from claims 1, 14, 40, and 42, respectively, are also nonobvious under § 103.

Contrary to the Examiner assertion, Applicants respectfully submit that van Zanten does not disclose wherein the contact housing 205 has any plurality of side protrusions, plurality of recesses, and connection means as described by the Examiner. For at least this reason, Applicants respectfully request withdrawal of the present rejection under 35 U.S.C. § 103(a).

In the Office Action, the Examiner rejected claims 20, 21, 44, and 45 under 35 U.S.C. § 103(a) as being allegedly anticipated by Baba et al. in view of Sugiyama et al. This rejection is respectfully traversed and reconsideration is requested.

Claims 20, 21, 44, and 45 depend from claims 1, 14, 40, and 42, respectively, which as discussed above, are patentable over Baba et al. Sugiyama et al. is asserted by the Examiner as disclosing features recited by dependent claims 20, 21, 44, and 45. Without reaching the merits of this assertion, Applicants respectfully submit that Sugiyama et al. fails to cure the above-cited deficiencies of Baba et al. as applied to independent claims 1, 14, 40, and 42 above. Therefore, Applicants respectfully submit that claims 20, 21, 44, and 45, which depend from claims 1, 14, 40, and 42, are patentable over Baba et al. in view of Sugiyama et al.

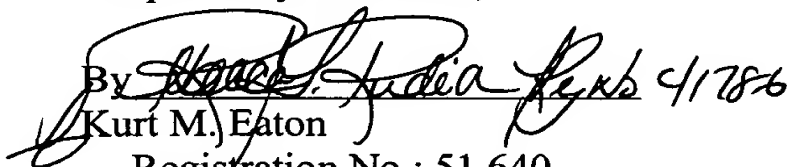
Applicant believes the foregoing amendments and remarks place the application in condition for allowance and early, favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

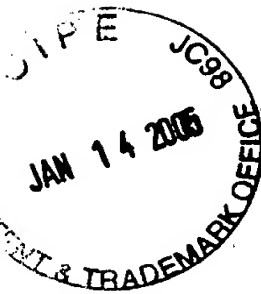
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Respectfully submitted,

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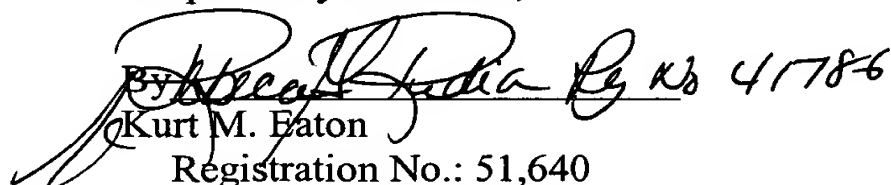
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